

U.S. Application No.: 10/563,370
Inventors: Massimo BRUSAROSCO et al.
Attorney Docket No.: 07040.0244
Reply to Office Action dated June 25, 2008

REMARKS

By this Response, Applicants have amended claim 57. No new matter has been added. Claims 48-94 are present and pending on the merits in the application.

I. Restriction and Election of Species Requirements

In the Office Action, an election under 35 U.S.C. § 121 of one of the following two asserted groups of claims was required:

- I. Claims 48-66, allegedly "drawn to a process"; and
- II. Claims 67-94, allegedly "drawn to an apparatus."

Applicants provisionally elect Group I, claims 48-66.

In addition to the above-outlined restriction requirement, an election under 35 U.S.C. § 121 of one of the following two asserted species was also required:

- Species A, a "frequency greater than or equal to 5 kHz (claim 56)"; and
- Species B, a "frequency greater than or equal to 7 kHz (claim 57)."

Applicants provisionally elect, Species A (claim 56). Thus, at least claims 48-56 and 58-66 should be examined on the merits. Moreover, by this Response, Applicants have amended claim 57 to depend from provisionally-elected claim 56. Therefore, Applicants respectfully submit that examining amended claim 57 on the merits along with elected claims 48-56 and 58-66 would not present a serious burden on the Examiner. For at least this reason, Applicants respectfully request that claim 57 be examined on the merits. See M.P.E.P. § 803 (advising that in order for a restriction

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requirement to be proper, examining claims directed to a distinct invention must result in a serious burden on the Examiner).

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II. Conclusion

In summary, Applicants provisionally elect Group I and Species A. Applicants believe that at least claims 48-66 should be examined on the merits.

If the Examiner believes that a telephone conversation might advance prosecution, the Examiner is cordially invited to call Applicants' undersigned attorney at (404) 653-6559.

The Office Action includes a number of statements reflecting apparent characterizations of the claims. Applicants respectfully decline to automatically subscribe to any such statements contained in the Office Action, regardless of whether those statements are specifically addressed in this Response.

Please grant any extensions of time required to enter this Response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted;

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 25, 2008

By: 

Christopher T. Kent
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